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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,480	06/06/2001	Nikil Jayant	062004-1770	7949

24504 7590 11/19/2002

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EXAMINER

AN, SHAWN S

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/875,480

Applicant(s)
Nikil Jayant et al.

Examiner
Shawn An

Art Unit
2613



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 3, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION***Response to Remark***

1. Applicant's remarks filed 9/3/02 as Paper 9 have been considered but they are not persuasive. The Applicants present arguments of which Ichige et al or Yamamoto reference fails to teach or disclose A) *“mean for allocating a first percentage of available data transmission capacity with a plurality of video data associated with a dominant image, and allocating a second percentage of available data transmission capacity with the background image, such that the plurality of video data associated with the dominant image is transferred at a higher data transmission rate than the plurality of video data associated with the background image”*; and B) *“assigning a higher number of error control overhead bits to the object macroblock than to the background macroblock to the background macroblock”* as recited in all independent claims. After careful scrutiny of Ichige et al and Yamamoto references, the Examiner must respectively disagree, and maintain the grounds of rejection for the reasons that follow.

Regarding argument a), Ichige et al's reference is directed at producing a high quality video image in a real time manner even though such a transmission line having a low transmission rate ... (col. 2, lines 38-43) by utilizing such as figs. 1, 4, 7, and 9, wherein Ichige et al discloses *mean (28 or 128) for allocating a first percentage of available data transmission capacity with a plurality of video data associated with a dominant image (24), and allocating a second percentage of available data transmission capacity with the background image (25a), such that the plurality of video data associated with the dominant image is transferred at a higher data transmission rate* (allocating a larger quantity of information; greater number of codes) *than the plurality of video data associated with the background image* (col. 5, lines 19-55; Fig. 9; col. 8, lines 39-59). In other words, the dominant images are allocated/transferred at a higher data transmission rate (basically more compressed bits per second by allocating a larger

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quantity of information) in relative comparison with the background images within a transmission line having a low transmission rate.

Regarding argument B), the Applicants are reminded that the particular argument is based on combinations of two references, namely Ichige et al and Yamamoto.

Ichige et al fails to disclose assigning a higher number of error control overhead bits to the object macroblocks than to the background macroblocks.

However, Yamamoto teaches a concept of an error correction code adding additional overhead bits to each block of video data, thereby increasing the redundancy of the data (col. 8, lines 32-35).

Therefore, it would have been considered obvious to a person of ordinary skill in the art employing a system for communication of video data as taught by Ichige et al to incorporate the well known concept of adding additional overhead bits to each block of video data as taught by Yamamoto so that the higher number of error control overhead bits can be assigned to the object macroblocks than to the background macroblocks, thereby increasing the redundancy of the data with the object macroblocks, in order to improve the performance of the object oriented coder, thus enhancing quality, and to allow more effective video messaging.

Furthermore, in response to Applicant's argument against the references individually, one cannot show nonobviousness by attacking references individually where **the rejections are based on combinations of references**. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ichige et al (5,710,590) as previously set forth in the last Office action as Paper 8.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichige et al (5,710,590) in view of Iwamura (5,400,076) as previously set forth in the last Office action as Paper 8.
6. Claims 4-5, 8-9, 11-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichige et al (5,710,590) in view of Yamamoto (4,437,125) as previously set forth in the last Office action as Paper 8.
7. Claims (6-7), 10, (13-14), and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichige et al and Yamamoto as applied to claims 4, 8, 11, and 15 above, respectively, and further in view of Kato (6,415,055 B1) as previously set forth in the last Office action as Paper 8.


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Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

a shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn An whose telephone number (703) 305-0099 and schedule are Tuesday-Friday.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600



SSA

November 11, 2002